

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

**GOVERNMENT'S RESPONSE TO DEFENSE MOTION TO STRIKE PURPORTED  
SURPLUSAGE FROM THE FOURTH SUPERSEDING INDICTMENT**

The United States of America, by and through its attorney, Christina E. Nolan, United States Attorney, files this response to the defendant’s motion that the Fourth Superseding Indictment be amended to eliminate the word “victim” in order to avoid prejudice to the defendant at trial. While the government does not concede that inclusion of the word “victim” in an indictment is *per se* prejudicial to a defendant, the government does not oppose the defendant’s request that the Fourth Superseding Indictment be amended to eliminate the word “victim” for purposes of relaying the charges to the trial jury. However, given the sensitive nature of the charges in this case and the small community in which the witnesses live, the government urges the Court to replace “Victim A” with Victim A’s initials, and so on for all other named victims. The government believes that replacing “Victim A” with Victim A’s actual name or first name and last initial, as the defendant suggests, is contrary to the provisions of the Justice for All Act, 18 U.S.C. § 3771, requiring that federal crime victims be treated with fairness and with respect for dignity and privacy. The government reached out to the defense in an attempt to arrive at a mutually agreeable solution, but the government has not yet learned of the defendant’s position with respect to the government’s proposal.

Dated at Burlington, in the District of Vermont, October 15, 2018.

Respectfully submitted,

UNITED STATES OF AMERICA

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UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

UNITED STATES OF AMERICA, )  
v. ) Crim. No. 2:16-CR-94  
BRIAN FOLKS aka "Moe," aka "Moet Hart," )  
Defendant. )

**CERTIFICATE OF SERVICE**

I, Abigail E. Averbach, Assistant United States Attorney for the District of Vermont, do hereby certify that on October 15, 2018 I filed a copy of the foregoing **GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION TO STRIKE PURPORTED SURPLUSAGE FROM THE FOURTH SUPERSEDING INDICTMENT** via the Court's electronic filing system and, as so filed, a copy will be served on Natasha Sen and Mark Kaplan, Counsels for Defendant, via ECF.

Dated and signed at Burlington, Vermont this 15<sup>th</sup> day of October, 2018.

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